

ORDINANCE NO. 2021-393

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA, AMENDING CHAPTER 17.90 OF THE LAND USE AND DEVELOPMENT CODE, TO MODIFY THE DEFINITION OF PERMEABLE PAVING AND PVIOUS SURFACE.

WHEREAS, the City Council of the City of Calabasas, California (“the City Council”) has considered all of the evidence including, but not limited to, the Planning Commission Resolution, Planning Division staff reports and attachments, and public testimony at the September 2, 2021 Planning Commission meeting and [__date__] City Council meeting, before making a final decision ; and,

WHEREAS, the City Council finds that the Land Use and Development Code Amendment herein is consistent with the goals, policies, and actions of the General Plan and will not conflict with the General Plan; and,

WHEREAS, the City Council finds that the Land Use and Development Code Amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and,

WHEREAS, the City Council finds that the Land Use and Development Code Amendment herein is internally consistent with other applicable provisions of the Land Use and Development Code; and,

WHEREAS, the Land Use and Development Code Amendment herein reflects the input of residents, stakeholders, and public officials, and implements the General Plan’s visions and desire for the community, is adopted in the public’s interest, and is otherwise consistent with federal and state law;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CALABASAS DOES ORDAIN AS FOLLOWS:

SECTION 1. Based upon the foregoing the City Council finds:

1. The amendments to the definitions of “permeable paving” and “pervious surface”, as prescribed in Section 4 of this Ordinance, will serve to better implement General Plan policies pertaining to storm water runoff control, water resource conservation, and water quality protection, and will improve the quality of life for residents and property owners throughout the City.
2. Following a public hearing held on September 2, 2021, the Planning Commission adopted Resolution No. 2021-718 recommending to the City Council adoption of Ordinance 2021-393, amending CMC Chapter 17.90 to modify the definitions of “permeable paving” and “pervious surface” within CMC Subsection 17.90.020(P).

SECTION 2. In view of all the evidence and based on the foregoing findings, the City Council concludes as follows:

Section 17.76.050(B) Calabasas Municipal Code allows the Planning Commission to recommend and the City Council to approve a Development Code change provided that the following findings are made:

1. *The proposed amendment is consistent with the goals, policies, and actions of the General Plan;*

The proposed amendment meets this finding because it improves the ability for staff and decision making bodies to apply pervious surface standards and requirements to development proposals, in a manner that is consistent with General Plan policies in the Land Use Element and the Conservation Element, specifically policies II-8, IV-26, and IV-27. Respectively, these policies promote: retention of Calabasas' natural environmental setting; monitoring and employment of emerging technologies and techniques for minimizing water quality impacts from urban runoff; and, prevention of pollutants from running off into area waterways through use of subsurface filtration techniques.

2. *The proposed amendment would not be detrimental to the public interest, health, safety, convenience or welfare of the city;*

The proposed amendment is not detrimental to the public interest, health, safety, convenience, or welfare of the City as the proposed amendment provides more clarity as to how to ensure infiltration when using pervious pavement by establishing a minimum standard.

3. *The proposed amendment is in compliance with the provisions of the California Environmental Quality Act (CEQA).*

The proposed amendment is categorically exempt from environmental review in accordance with section 15061(b)(3) of the CEQA Guidelines, General Rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed amendment will not result in additional development opportunities or any foreseeable environmental impact. Furthermore, this project is exempt under CEQA Guidelines sections 15183 and 15308.

4. *The proposed amendment is internally consistent with other applicable provisions of this development code.*

The proposed amendment updates the current definitions of Pervious Surface and Permeable Pavement to provide greater understanding and clarity. Furthermore, the proposed amendment supports and improves the ability for planning staff and decision makers to apply the provisions of CMC Chapter 17.26 (Landscaping) to development projects with pervious surface elements. Lastly, the amendment does not conflict with any other provision of the Development Code. Therefore, the proposed amendment meets this finding.

SECTION 3. The City Council hereby finds with certainty that there is no possibility that adoption of this ordinance amending the City's regulations for pervious surfaces and permeable paving will have a significant effect on the environment. Accordingly, under the provisions of section 15061(B)(3) and 15378(B)(5) of Division 6 of Title 14 of the California Code of Regulations, the CEQA Guidelines, adoption of this ordinance is not subject to the requirements of the California Environmental Quality Act.

SECTION 4. CODE AMENDMENT. The City Council hereby amends Subsection 17.90.020(P) of the Calabasas Municipal Code to delete the existing definitions of the terms "permeable paving" and "pervious surface", and replacing those definitions with the following:

"Permeable paving" means any paving material or paving system that permits water penetration to a soil depth of eighteen (18) inches or more. Paving systems may include combinations of nonporous surface material poured or laid in distinct and separate sections installed in combination with permeable materials (examples include crushed stone, gravel or equivalent) such that at least two-thirds of the total surface area of the system permits water penetration to a soil depth of eighteen (18) inches or more. Permeable paving systems that require drainage to the curb or direct connection to the storm drain system do not qualify as permeable paving. Engineered paving systems under this definition include interlocking concrete pavers installed to comply with the standard from the American Society of Civil Engineers (ASCE) – Standard 68-18 for Permeable Interlocking Concrete Pavement, or an equivalent standard for interlocking concrete pavers may be adopted by Resolution by the City Council. Individual paving units must have a minimum surface open area void space of 5% and a minimum in-service infiltration rate of not less than 10in/hr and complying with ASTM Standard C1781 – Standard Test Method for Surface Infiltration Rate of Permeable Unit Pavement Systems, or an equivalent standard as may be adopted by Resolution by the City Council. Alternative designs, which meet infiltration testing in accordance with ASTM Standard C1781, or an equivalent standard as may be adopted by Resolution by the City Council, may be considered subject to review and approval by the Director. Any permeable

paving system must be certified by a licensed civil engineer, landscape architect, or other qualified, licensed professional, as meeting the requirements of this definition.

“Pervious surface” means those portions of a property or site that allow for water penetration into the soil, to a soil depth of 18 inches or more, such as landscaped areas, natural areas, and developed hardscape areas where permeable paving has been used or which otherwise includes storm water runoff features consistent with Calabasas Municipal Code Chapter 17.26. Pervious surfaces may not be covered with structures that prevent water penetration into the soil, to a depth of at least 18 inches.

SECTION 5. SEVERABILITY. Should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance shall remain in full force and effect and, to that end, the provisions hereof are declared to be severable.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code section 36937.

SECTION 7. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED this ___ day of September, 2021.

James Robert Bozajian, Mayor

ATTEST:

Maricela Hernandez, MMC
City Clerk

APPROVED AS TO FORM:

Matthew T. Summers
Colantuono, Highsmith & Whatley, PC

City Attorney